BORA LASKIN LAW LIBRARY
3 1761 09564152 8

UNIVERSITY OF TORONTO
FACULTY OF LAW

SUPPLEMENT FOR

CONTRACTS LAW

(SECTION 1 AND SMALL GROUP A)

Professor Peter Benson

2013- 2014

Faculty of Law
University of Toronto

STORAGE
K
840
.B46
2013
c.1

Section numbering follows the course syllabus.

materials are not to be considered published and this compilation is intended for teaching purposes.

BORA LASKIN LAW LIBRARY
SEP - 3 2013
FACULTY OF LAW
UNIVERSITY OF TORONTO

SUPPLEMENT FOR

CONTRACTS LAW

(SECTION 1 AND SMALL GROUP A)

Professor Peter Benson

Faculty of Law
University of Toronto

Note: Section numbering follows the course syllabus.

These materials are not to be considered published and this compilation is intended solely for teaching purposes.

Digitized by the Internet Archive
in 2018 with funding from
University of Toronto

https://archive.org/details/supplementforcon00bens_4

TABLE OF CONTENTS

I. REMEDIES

A. The Compensation Principle
Fuller and Perdue, The Reliance Interest in Contract Damages 1

B. The Measures of Damages for Breach of Contract

(1) The Expectation Measure
Peevyhouse v. Garland Coal & Mining Co. 12
Radford v. De Froberville 18
Ruxley Electronics v. Forsyth 28

(2) Expectation or Reliance?
Bowlay Logging v. Domtar Ltd. 49
Background on *Hawkins* 53
Sullivan v. O Connor 54

C. Problems in Measuring Damages

(1) Uncertainty
Chaplin v. Hicks 59

E. Remoteness of Consequential Loss
Kerr S.S. Co. v. Radio Corporation of America 62
H. Parsons (Livestock) Ltd. v. Uttley Ingham & Co. 66
Morris, Duty, Negligence and Causation 74

F. Mitigation of Loss
Asamera Oil Corp. v. Sea Oil & General Crop. 77

G. Intangible Injuries and Punitive Damages
Vorvis v. Insurance Corporation of British Columbia 87
Whiten v. Pilot Insurance 99
Fletcher v. Western National Life Insurance Co. 136
Rookes v. Barnard 140
Hegel, *Philosophy of Right*, paras. 84-86 144
Hegel, *Encyclopedia*, paras. 496-99 144

II. FORMATION

A. Introduction

Grotius, *The Law of War and Peace*, Bk. II, c.11 146
Hegel, *Philosophy of Right*, para 79 150
Hegel, *Encyclopedia*, paras 493 151

B. Offer and Acceptance

(1) Definitions and Features

Corbin on Contracts, nos. 11 and 12 152
Cooke v. Oxley 154
Adams v. Lindsell 155
Tinn v. Hoffman 156
Butler Machine Tool Co. v. Ex-Cell-O Corp. 157
Corbin on Contracts, no. 21 162

C. Doctrine of Consideration

(1) Introduction

Golding s Case 164
Nichols v. Raynbred 164

(3) Past Consideration

Hunt v. Bate 164
Mills v. Wyman 165
Webb v. McGowin 168
Fuller, Consideration and Form 171
Hobbes, *Leviathan*, xiv 186

(4) Pre-Existing Duty

Pao On v. Lau Yiu Long 189

III. CONTRACT, TORT, AND UNJUST ENRICHMENT

A. Detrimental Reliance as a Substantive Basis of Liability: The Tort Principle
Seavey, *Reliance Upon Gratuitous Promises or Other Conduct* 197
Imperator Realty v. Tull 198
Re Tudale Explorations Ltd. and Bruce 201

B. Warranties and Misrepresentations

(2) Innocent Misrepresentations
Hedley Byrne & Co. v. Heller 209

(3) Interaction between Tort and Contract
Central Trust v. Rafuse 215
B.C. Hydro v. B.G. Checo International 223

C. Unjust Enrichment as a Substantive Basis of Liability: The Restitution Principle
Kelly v. Solari 238
Grotius, *The Law of War and Peace*, Bk. II, c.10 239
Britton v. Turner 243
Attorney-General v. Blake 247

D. Third Party Beneficiaries
Lawrence v. Fox 271
Glanzer v. Shepard 275
Ross v. Caunters 277
White and another v. Jones and others 282
Trident General Ins. Co. v. McNiece Bros 303

IV. INFORMATION IMPERFECTIONS AND CONDITIONS

A. Introduction
Utica City National Bank v. Gunn 325

B. The Parol Evidence Rule
Corbin on Contracts, nos. 573 and 574 328

C. Conditions

(1) Express
Barnett v. Harrison 331

(2) Implied

a. The Fundamental Principle and its Application
Hong Kong Fir Shipping co. v. Kawasaki Kisen Kaisha Ltd. 340

b. Anticipatory Breach
Hochster v. De La Tour 345
Frost v. Knight 348
Williston, *Repudiation of Contracts* 353

c. Non-disclosure and Mistake
Grotius, *The Law of War and Peace*, Bk. II, c.11 366
Lever Bros. Ltd. v. Bell 367

d. Frustration
Canadian Industrial Alcohol Co. v. Dunbar Molasses Co. 373
Herne Bay Steamboat Co. v. Hutton 376
Woodward, *Impossibility of Performance* 379
Fibrosa Spolka Akcynja v. Fairbairn Lawson Combe Barbour Ltd. 386

V. FAIRNESS IN CONTRACT

A. Introduction

Aristotle, *Nichomachean Ethics*, V 396
Grotius, *The Law of War and Peace*, Bk. II, c.12 399
Kant, *The Doctrine of Right* 400

B. The Principle of Equality: Unconscionability

Beale, *Inequality of Bargaining Power* 402
Hegel, *Philosophy of Right*, paras. 76-77 411
Hegel, *Encyclopedia*, para. 494 412
Fried, *Contract as Promise* 412

C. Exclusionary Clauses and Limitations on Liability

Heffron v. Imperial Parking Co. 418
B.G. Linton Construction Ltd. v C.N.R. 426
Harbutt s Plasticine v. Wayne Tank Co. 431
Photo Production Ltd. v. Securior Transport Ltd. 438
George Mitchell (Chesterhall) Ltd. v Finney Lock Seed Ltd. 444

D. Agreements in Restraint of Trade

Mitchel v. Reynolds 458
Nordenfelt v. Maxim Nordenfelt Guns & Ammunition Ltd. 461
Esso Petroleum v. Harper s Garage (Stourpot) Ltd. 472
Stephens v. Gulf Oil Canada Ltd 474
Korres Manufacturing Co. v. Kolok Manufacturing Co. 477